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U.S. DEPARTMENT OF COMMERCE**

**HEARING ON
OVERSIGHT OF NOAA'S REPORT ON ILLEGAL, UNREPORTED, AND
UNREGULATED FISHING**

**BEFORE THE
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE
U.S. HOUSE OF REPRESENTATIVES**

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Introduction

Chair and Members of the Subcommittee, my name is Alexa Cole and I am the acting Director of the Office of International Affairs and Seafood Inspection within the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) of the Department of Commerce. NMFS is responsible for the stewardship of the nation's living marine resources and their habitat, including managing for productive and sustainable fisheries, safe sources of seafood, the recovery and conservation of protected resources, and healthy ecosystems—all backed by sound science and an ecosystem-based approach to management.

Thank you for inviting me to testify. Today, I will describe the agency's work to combat illegal, unreported, and unregulated fishing, known as IUU fishing, with a focus on our *2019 Improving International Fisheries Management* Report to Congress in which we identify certain nations that have engaged in fishing activities that can be classified as IUU fishing. I will also address our efforts to reduce unsustainable fishing practices such as inadequately regulated and managed bycatch of protected living marine resources (PLMRs) and shark catch on the high seas, which are also addressed in the Report.

The United States is a global leader in sustainable seafood and is committed to preventing illegally harvested and fraudulently marketed fish and fish products from entering the global stream of commerce. Through sound science, strong management programs, and fair and effective enforcement, the United States has successfully reduced domestic overfishing to its lowest level in decades and rebuilt a record number of historically depleted domestic stocks. Building from these domestic successes, we promote similar management strategies in international fisheries. IUU fishing undermines not only our efforts to sustainably manage stocks, but also concurrent efforts by regional fishery management organizations to which the United States is a party.

Entities that engage in IUU fishing circumvent conservation and management measures and avoid the operational costs associated with sustainable fishing practices. IUU fishing also undermines the reputation of legitimate fishing and seafood operations and the consumer confidence on which they rely. Because the United States annually obtains more than 90 percent of its consumable seafood from foreign sources, NMFS works to ensure that this high demand for imported seafood does not create incentives for illegal fishing activity in other nations or on the high seas. The increasing demand for fish and fish products can overwhelm countries that lack the necessary management and/or enforcement capacity to sustainably manage their marine resources. Furthermore, how other countries manage our shared marine resources can directly affect the status of fish stocks important to the United States. Thus, the United States has a critical role and significant interest in combating IUU fishing including by excluding illegal and misrepresented products from the U.S. market.

Report to Congress Overview

The *Improving International Fisheries Management* Report to Congress is issued every two years. The report is a requirement of the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act), as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Shark Conservation Act of 2010, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015, and the 2016 Ensuring Access to Pacific Fisheries Act. In amending the Moratorium Protection Act, Congress directed the Executive Branch to strengthen its leadership in international fisheries management and enforcement, particularly with regard to IUU fishing and unsustainable fishing practices such as bycatch of protected living marine resources (PLMRs) and shark catch on the high seas that are inadequately regulated and managed.

In the two years prior to a report to Congress, NMFS begins by analyzing information on IUU fishing as well as bycatch of protected living marine resources (PLMRs) and shark catch on the high seas by foreign fleets flagged to nations without regulatory programs comparable to those of the United States. The timeframe for information considered across the three pillars – IUU fishing, bycatch of PLMRs, and shark catch on the high seas – is the three years preceding publication of the report (e.g., 2016, 2017, and 2018 for the 2019 Report). Based on this analysis, the United States initiates a three-step process, with the goal of ensuring that nations take appropriate actions to correct unsustainable fishing practices.

Identification is the first step in this three-step process, which also includes consultation with identified nations and is followed by certification that corrective action has, or has not, been sufficient. NMFS, on behalf of the Secretary of Commerce, identifies countries whose fishing vessels are engaged in IUU fishing, bycatch, or shark catch related activities. Additionally, NMFS can identify nations for systematic failure to address IUU fishing, including violations of conservation and management measures adopted under an international fisheries organization to which the United States is a Party. NMFS is committed to working with nations to address IUU fishing activities through both the regional organizations and the Moratorium Protection Act process.

Once it has identified a country, NMFS consults with the country to encourage it to address the activities for which it has been identified and improve its fisheries management and enforcement

practices. At the end of the two-year consultation period, the Secretary of Commerce will issue either a positive or negative certification determination for each identified nation. Prior to making final certification determinations, the Moratorium Protection Act requires the Secretary of Commerce to provide identified nations with notice of, and the opportunity to comment on, their preliminary certification decision. Identified nations may also supply additional documentary evidence of actions taken to address the activities for which they were identified. Nations identified as having vessels engaged in PLMR bycatch and/or shark catch on the high seas must adopt both a regulatory program comparable in effectiveness to that of the United States, and a management plan that will assist in the collection of species-specific data for the species of concern, in order to receive a positive certification. Nations that do not meet the certification standards as described above will receive a negative certification.

Vessels of nations that receive a negative certification are subject to denial of U.S. port access and port privileges. In addition, certain fish or fish products of the nation, derived from the activities that led to the identification, are subject to U.S. import restrictions.

Identification and Certification Determinations

The three nations (the Russian Federation, Mexico, and Ecuador) identified in the 2017 Report for IUU fishing activities in 2014 – 2016 took sufficient corrective actions, which resulted in a positive certification decision for each nation in our 2019 Report. However, also in the 2019 Report, Mexico and Ecuador were again identified for IUU fishing activities that occurred in 2016 – 2018; and the Republic of Korea was identified for IUU fishing activities in that same period. Although it did not meet the criteria for identification for IUU fishing, the 2019 Report noted areas of concern involving China's distant water fishing fleet.

Russian Federation: The Russian Federation was identified in the 2017 Report for having a number of vessels that violated resolutions of the Commission for the Conservation of Antarctic Living Marine Resources in 2014 or 2015 and for having a vessel illegally fishing within the U.S. Exclusive Economic Zone or EEZ. The United States worked with the Russian Federation during the two-year consultation period and these activities were addressed by Russia conducting thorough investigations and sanctioning the vessels involved where they found a violation had occurred. The Russian Federation received a positive certification in our 2019 Report and no further action is needed to address the 2017 identification.

Mexico: Mexico was identified in the 2015 and 2017 Reports for having small vessels, known as lanchas, fishing illegally in the U.S. EEZ, and for overfishing of stocks shared by the United States, including red snapper. Illegal fishing by Mexican lancha vessels has been a chronic problem for several decades despite widespread enforcement and diplomatic efforts by the U.S. Government to address it. After its 2015 identification, Mexico finally began to make some efforts to control the activities of its vessels. In 2017, Mexico first received a negative certification, which was then changed to a positive certification when Mexico was able to provide documentation that it had begun to prosecute violations by its lancha vessels. This was the first time that we saw some meaningful progress by Mexico on this intractable issue. However, due to the ongoing nature of the activities, NMFS again identified Mexico in our 2017 Report for new incursions that occurred in 2014 – 2015.

Since its 2017 identification, the United States has worked with Mexico during the consultation period to encourage it to continue to take enforcement actions to address the IUU fishing activity for which it was identified. Mexico has taken several actions to address the lancha incursions, including increasing surveillance patrols, curtailing engine subsidies that may have contributed to fleet expansion, and increasing prosecutions against those individuals involved in the lancha operations crossing the border. Mexico was issued a positive certification because appropriate and adequate corrective action (i.e., prosecution of the enforcement cases) occurred for those illegal fishing activities that were intercepted from 2014 – 2015. However, Mexican vessels continued to fish illegally in the U.S. EEZ in 2016 – 2018 so Mexico was again identified for these activities in the 2019 Report.

As noted above, NMFS is pleased to see progress on this long-standing issue, however, it is clear that Mexico's efforts are not yet having the necessary effect on the illegal activities. The United States will continue to work with Mexico to encourage more effective actions, including increased monitoring and control of the lanchas to address these activities by improving compliance to prevent illegal incursions and not just by prosecuting the violators intercepted by the United States. In the 2019 Report, we have identified a number of areas where we will be closely monitoring Mexico's progress during this two-year consultation period. When making our 2021 certification determination, we will be focused on whether we are seeing significant changes in both the number of incursions and the number of repeat offenders found fishing illegally in U.S. waters.

Ecuador: Ecuador was identified in the 2017 Report for having a number of vessels that violated Inter-American Tropical Tuna Commission (IATTC) conservation and management measures in 2014 and 2015. The United States worked with Ecuador during the two-year consultation period and Ecuador addressed the activities for which it was identified in the 2017 Report by sanctioning the vessels involved. This was sufficient to receive a positive certification. However, the United States identified Ecuador in the 2019 Report after concluding that Ecuador failed to fully investigate a number of new cases, occurring in 2016 – 2018, where Ecuadorian-flagged vessels allegedly violated IATTC conservation and management measures. The United States is particularly concerned with Ecuador's failure to fully investigate allegations of noncompliance with IATTC resolutions by Ecuador's purse-seine fleet, which comprises approximately 40% of the total number of purse-seine vessels currently authorized to fish for tunas in the eastern Pacific Ocean. The United States is also concerned by the recurrent vessel-specific issues, which have been the basis for Ecuador's repeated identifications for IUU fishing in the biennial reports to Congress, although we have seen increasing engagement on these issues both bilaterally and multilaterally. During our work with Ecuador, we discovered that its statute of limitations was so short that often by the time the Ecuadorian authorities were made aware of a compliance issue, the case could be dismissed for being past the time frame to prosecute. Our work with Ecuador helped close this loophole. The United States will continue to engage with Ecuador to encourage appropriate corrective actions for the new cases, and to ensure that future cases are subject to timely investigation and enforcement actions, as appropriate.

Republic of Korea: The Republic of Korea was identified in the 2019 Report for failing to apply sufficient sanctions to deter its vessels from engaging in fishing activities that violate conservation and management measures adopted by an international fishery management

organization. Records from the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), as well as information provided to CCAMLR and the United States by the Republic of Korea, indicate that two vessels flagged to Korea violated CCAMLR conservation and management measures in 2017, and that Korea was unable to take effective actions to address the violations due to gaps in its legal framework. During consultations with the United States, Korea recognized the need for additional enforcement authority to issue administrative penalties in cases involving vessels engaged in IUU fishing that are inappropriate for criminal prosecution, as well as for provisions to enable the government to deprive the violators of the economic benefit of their violations even when the illegally-harvested catch cannot be legally or feasibly confiscated.

China: China was not identified under the Moratorium Protection Act. However, in our review of information related to IUU fishing, we became aware of numerous incidents of alleged IUU fishing in waters under the jurisdiction of other nations in 2016 through 2018 that involved vessels either confirmed or likely to be Chinese-flagged vessels. While these activities do not fall within the Moratorium Protection Act's regulatory definition of IUU fishing, and therefore could not serve as the basis for an identification under the Act, the number of alleged incidents, and the broad geographic scope of these activities made it essential for us to raise our concerns in the 2019 Report to Congress. NMFS is preparing a proposed rule that would amend regulations implementing the Moratorium Protection Act.

Bycatch

In 2015, the *Illegal, Unreported, and Unregulated Fishing Enforcement Act*, extended the time frame of information that can be considered for bycatch identification from one year to three years. As a result, NMFS was able to consider data from 2016-2018 for possible identifications of nations for inadequately regulated and managed bycatch of protected living marine resources for the 2019 Report. Despite this, no actionable data was available. The majority of bycatch occurrences, particularly within waters under the jurisdiction of another nation, are not publicly reported. If the bycatch is reported, the data is typically unavailable until years after the fishing activity has occurred, outside the timeframe for identification in the Report. NMFS is committed to considering ways to address these data availability challenges, including exploring alternative data collection methods to address these gaps.

In support of these efforts, NMFS will continue to work bilaterally and multilaterally to strengthen global bycatch management measures, including in regional fisheries management organizations, with the goal of leveling the playing field for the U.S. industry and ensuring the sustainability of our protected resources, such as turtles and marine mammals. As part of that process, over the next three years, NMFS will prioritize addressing bycatch in pelagic longline fisheries in the three tuna regional fishery management organizations (RFMOs) to which the United States is a member: the International Commission for the Conservation of Atlantic Tunas (ICCAT), the Inter-American Tropical Tuna Commission (IATTC), and the Western and Central Pacific Fisheries Commission (WCPFC). While there have been some conservation successes in these organizations, more needs to be done. NMFS will work with our international partners, both bilaterally and multilaterally, to improve our understanding of their current mitigation practices for pelagic longline fisheries within the three tuna RFMOs, and encourage the adoption of the use of circle hooks and other related bycatch mitigation tools. Taking into consideration

any additional data, coupled with any progress, or lack thereof, in the regional fisheries management organizations, NMFS will be looking closely at countries that do not meet the criteria in the bycatch provision when making its identification determinations in the 2021 Report.

Sharks

This was the first Report in which NMFS was able to consider three years of catch data for a potential identification of a nation for the catch of sharks on the high seas without a regulatory program for the conservation and management of sharks comparable to that of the United States. For the 2019 report, information on shark catch was only available for 2016 and 2017 since catch data reported to an RFMO lags by one year. Despite the expanded timeframe, no actionable data was found since catch data reported to RFMOs does not definitively specify the location of catch (i.e., whether it was caught on the high seas or within waters under national jurisdiction). Therefore, NMFS did not identify any nations for shark catch on the high seas in the 2019 Report to Congress. NMFS will continue working towards the global conservation and management of sharks, including urging international fishery management organizations to which we belong to adopt measures for the conservation of sharks, including measures to prohibit removal of any fins of the shark and discard the carcass, comparable to measures of the United States. We will also continue to inform nations of our mandates under the Moratorium Protection Act and to make concerted efforts within regional fishery management organizations to adopt and strengthen shark conservation and management measures, including strengthening catch reporting requirements to, among other enhancements, specify fishing areas. Lastly, NMFS has requested domestic regulatory information from those nations that have reported shark catches. NMFS will analyze and determine whether a nation's regulatory program is comparable to that of the United States. NMFS will then work with these nations bilaterally over the next two years with the goal for these nations, in implementing RFMO measures for sharks, to adopt regulatory programs that are comparable to the United States.

Forced Labor

A growing body of evidence documenting severe labor rights abuses and exploitation on board fishing vessels has led to calls for greater international attention to labor and other social welfare concerns in the fishing sector. These reports document that some fishermen, many of them migrant workers, are subjected to labor rights abuses, including forced labor, on board fishing vessels. These issues are beyond the scope of the Moratorium Protection Act Report; however, such abuses and exploitation are known to occur in conjunction with IUU fishing activities, and therefore warrant attention by fishery managers and other appropriate bodies. NOAA will continue to engage with our interagency partners to work collectively to address these important issues. Addressing labor rights abuses and human trafficking in the fishing sector will require widespread global attention across a number of international organizations, as well as cross-cutting efforts across U.S. federal agencies.

International Management

U.S. fisheries are a global model of success, leading the way in science-based management and in the use of innovative strategies to achieve and maintain sustainable fisheries and to preserve and rebuild protected species. In addition to the identification and certification reporting requirement mandated by the Moratorium Protection Act, NOAA also engages with other

countries bilaterally and multilaterally to promote sound management and conservation of global fisheries resources in a manner consistent with U.S. domestic fisheries policy. NOAA, along with interagency partners, has conducted and continues to hold capacity building workshops around the world on combating IUU fishing, implementing the Port State Measures Agreement, and fisheries law enforcement best practices.

NOAA, in partnership with the U.S. Agency for International Development (USAID), State Department Bureau of International Narcotics and Law Enforcement Affairs, U.S. Naval Forces Africa, and the Food and Agriculture Organization of the United Nations, has been engaged in counter-IUU fishing capacity building initiatives around the globe, including Africa, Southeast Asia, Latin America and the Caribbean. Since 2008, NOAA, the U.S. Coast Guard, the State Department and USAID, have conducted numerous workshops across Southeast Asia on combating IUU fishing and implementing fisheries law enforcement best practices. And since 2013, NOAA has collaborated in efforts to train African fisheries management and enforcement officials and prosecutors. These workshops not only strengthen local fisheries enforcement capabilities, but also promote interagency cooperation and regional coordination. In addition, the United States has focused on revitalizing our engagement in the Pacific Islands. As a Pacific nation itself, the United States and the Pacific Islands have many shared values, interests, and commitments. We are committed to regional efforts to address IUU fishing, through shiprider agreements, multilateral operations, and capacity building efforts to detect, investigate and prosecute fisheries violations.

The United States is also a leader within regional fishery management organizations in efforts to strengthen and develop effective monitoring, control and surveillance tools, improve member country compliance, and works closely with countries around the world to develop strong enforcement tools and effective conservation and management measures. The Moratorium Protection Act is an additional tool we use to address, through a comprehensive approach, unsustainable fisheries activities of greatest concern to the United States.

Enhancing NOAA's Counter-IUU Fishing Enforcement Capacity

In support of this Administration's counter-IUU fishing priority, the President's fiscal year (FY) 2020 Budget includes enhancements to improve NOAA's ability to detect IUU fishing and seafood fraud and promote compliance with the Seafood Import Monitoring Program (SIMP). The recently-implemented SIMP is an important, risk-based approach that established reporting and recordkeeping requirements for imports of certain seafood products to help prevent illegal, unreported, and unregulated and/or misrepresented seafood from entering U.S. commerce. The FY 2020 Budget requests an increase of \$1.6 million to hire additional investigators who will focus on detecting and deterring violations of seafood fraud, mislabeling, wildlife trafficking, and SIMP reporting requirements, as well as support forensic examinations of imported seafood products and conducting inspections of foreign fishing and fishing support vessels in support of the Port States Measures Agreement.

Conclusion

The United States is a global leader in the conservation of living marine resources and ensuring the health and sustainability of fisheries on a domestic and international scale, including support for measures to reduce bycatch—a global threat to many protected marine species—and to

strengthen shark management. IUU fishing and other unsustainable fisheries practices pose a direct threat to food security and socio-economic stability in many parts of the world, and undermine legitimate fishers and their livelihoods. In collaboration with foreign governments, the United States tracks, identifies, and combats IUU fishing and other unsustainable fishing practices that threaten our shared natural resources.

Combating IUU fishing is a priority for this Administration. As demonstrated in my testimony, NOAA, through our identification and certification process under the Moratorium Protection Act, is undertaking strong actions and initiatives to combat IUU fishing activities. The *Improving International Fisheries Management* Report to Congress is an important part of NMFS's work to improve global fisheries management, support the effective management of protected species and shark catch on the high seas, and ensure that legal, sustainable fisheries are not disadvantaged by IUU fishing.

This concludes my testimony. Thank you again for the opportunity to testify before your Subcommittee today and I would be happy to answer any questions you may have.